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WHAT HAPPENS NEXT?

A GUIDE TO THE CHILD & FAMILY SERVICES DIVISION (CFSD), child protection services (cps)

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A NOTE ABOUT THIS GUIDE

This guide is to help you understand what happens during a Child & Family Services Division assessment and investigation. We know that being involved in an investigation of child abuse or neglect can be stressful and frightening. Knowing what to expect can make it less difficult.

The purpose of this booklet is to provide answers to the questions that are most often asked after a report of possible child abuse or neglect has been received by the Child & Family Services Division Child Abuse Hotline. During any child abuse or neglect assessment and investigation, you can expect to be treated with respect. Please keep in mind the safety of your child is the first priority. The social worker or supervisor will try to answer your questions about the assessment and investigation process.

As the mission statement of the Child and Family Services Division states, we work to "KEEP CHILDREN SAFE AND FAMILIES STRONG." We want to assist your family with that goal.

The State of Montana recognizes that the privacy of the family will not be violated unless there is some compelling state interest that justifies the state's intervention. The compelling state interest is the safety and health of the child.

EXPLANATION OF TERMS AND ABBREVIATIONS

This list includes terms and abbreviations that are used in this booklet or which you may hear from the social worker, the supervisor, or during court hearings.

DPHHS	Department of Public Health & Human Services
CFSD	Child and Family Services Division
CPS	Child Protective Services
ICWA	Indian Child Welfare Act
EPS	Emergency Protective Services
TIA	Temporary Investigative Authority
TLC	Temporary Legal Custody
TPR	Termination of Parental Rights
PLC	Permanent Legal Custody
GAL	Guardian ad Litem
CASA	Court Appointed Special Advocate
FGDM	Family Group Decision-Making (a meeting)
FCRC	Foster Care Review Committee
CI	Centralized Intake

WHAT DOES THE CHILD & FAMILY SERVICES DIVISION DO?

The Department of Public Health and Human Services (DPHHS), Child & Family Services Division (CFSD) is designated by Montana law as the agency responsible for the protection of children who are abandoned, neglected or abused. CFSD is given the duty to respond to reports of child abuse or neglect and to provide protective services when necessary, including the authority to take temporary or permanent custody of a child when ordered to do so by the court.

The Department's authority to intervene in people's families is given by Montana law. The department must strictly adhere to the specific requirements of the statutes in providing protective services to children in need of such care. Laws governing protective services to children in Montana can be found in Montana Code Annotated, Title 41, Chapter 3. Copies are in all public libraries in Montana and are also available on the State of Montana website **http://www.dphhs.state.mt.us**

WHAT IS A REPORT

A report, or a referral, is a statement that someone is concerned for a child's welfare or safety. When a report of suspected abuse or neglect is received by the Montana Statewide Toll-Free Child Abuse Hotline, it is sent to the appropriate CFSD office. A staff person from CFSD, a law enforcement officer, or the county attorney is required by law to assess and investigate the allegations. In Montana, most often the social worker and/or the supervisor conduct the assessment and investigation to determine if there is abuse or neglect present. It is the role of CFSD staff to help assure that children are safe from harm, and to assist parents and families in finding solutions to problems that may interfere with their child's safety.

WHO MADE THE REPORT TO THE CHILD ABUSE HOTLINE?

According to Montana law, the name of the person who made the report must remain confidential. Any person who believes that a child is being abused or neglected MAY report a suspected situation to the Hotline. Some persons are REQUIRED by law to report if they suspect child abuse or neglect. These persons include, but are not limited to, social workers, teachers, law enforcement officers, child care workers, and health care workers.

DEFINITIONS OF TYPES OF CHILD ABUSE AND NEGLECT

Child abuse or neglect:

a) means actual physical or psychological harm to a child or substantial risk of physical or psychological harm to a child; or abandonment.

b) The term includes:

i) actual physical or psychological harm to a child or substantial risk of physical or psychological harm to a child by the acts or omissions of a person responsible for the child's welfare.

ii) includes exposing a child or allowing a child to be exposed to the criminal distribution of dangerous drugs, as prohibited by 45-9-101, or the operation of an unlawful clandestine laboratory, as prohibited by 45-9-132. "Dangerous drugs: means the compounds and substances described as dangerous drugs in Schedules I through IV in Title 50, chapter 32, part 2.

Physical Abuse:

Physical abuse means an intentional act, an intentional omission, or gross negligence resulting in substantial skin bruising, internal bleeding, substantial injury to skin, subdural hematoma (injury to the brain), burns, bone fractures, extreme pain, permanent or temporary disfigurement, impairment of any bodily organ or function, or death.

Physical Neglect:

Physical neglect occurs when there is either failure to provide basic necessities to a child, including but not limited to appropriate and adequate nutrition, protective shelter from the elements, and appropriate clothing related to the weather conditions, or failure to provide cleanliness and general supervision, or both, or exposing or allowing the child to be exposed to an unreasonable physical or psychological risk to the child.

Sexual Abuse:

Sexual abuse means the commission of sexual assault, sexual intercourse without consent, indecent exposure, deviate sexual conduct, sexual abuse, ritual abuse, or incest of a child by a parent, guardian, adult residing in the child's home, foster parent, day care staff, employee of an institution or residential setting.

Sexual Exploitation:

Sexual Exploitation is defined as allowing or encouraging a child to engage in prostitution or films, photographs, using a child in an exhibition of sexual conduct, etc., i.e., 'kiddy porn'.

Psychological Abuse or Neglect:
Psychological abuse or neglect means severe maltreatment through acts or omissions that are injurious to the child's emotional, intellectual, or psychological capacity to function, including acts of violence against another person residing in the child's home. The term may not be construed to hold a victim responsible for failing to prevent the crime against the victim.

Medical Neglect:
Medical neglect is the failure of a parent or guardian or other person responsible for a child's welfare, to provide adequate health care, although reasonably able to do so. Adequate health care for a child means medical or nonmedical remedial care if such care is covered by medical insurance.

Educational Neglect:
Educational Neglect is the complete failure to educate or enroll a school-aged child in an education program.

These definitions do not include all the possibilities for abuse and neglect of children. Age and developmental abilities of each child must be considered in determining if an injury is "substantial" or the amount of supervision or care required to keep a child safe from harm. Lack of cleanliness becomes neglectful when a child's health is endangered. Inadequate nutrition may exist when a child fails to gain weight or loses weight consistently and the parent does not seek treatment for the child. Use or misuse of alcohol and/or other drugs by a child's caretaker may cause the child to be abused or neglected. Being an observer of frequent violence between parents or caretakers can constitute psychological abuse to children. Please talk with your social worker or the supervisor, if you have questions about what behaviors by caretaking adults might be abusive or neglectful to children.

WHAT DOES A SOCIAL WORKER DO TO ASSESS AND INVESTIGATE A REPORT?

When the Child Abuse Hotline receives a report, a trained Child & Family Services (CFSD) social worker is assigned to assess and investigate the validity of the report. The usual first step is to assess the immediate risk to the child, to check for past reports of abuse or neglect, and contact persons who may be able to give more information. The social worker may talk with a child in school or day care or visit the family in their home or in the local CFSD office. According to Montana law, a CFSD social worker has the right to talk with children

without a parent's or guardian's permission if abuse or neglect is suspected. When sexual abuse is suspected or when serious physical injury has occurred, local law enforcement frequently takes part in interviews with children. The goal is always to assure that the child is safe or can be made safe through CFSD involvement. If the social worker determines that the child can safely remain in the home with CFSD intervention, he or she may recommend services that would help decrease stress, or address other issues with the family. CFSD may provide voluntary protective services by entering into a written voluntary services agreement between you and the social worker as the CFSD representative. This voluntary agreement may be terminated by you or by CFSD at any time. You may have another person present during negotiation and signing of the voluntary agreement.

The social worker may recommend that you and your family participate in a Family Group Decision-Making meeting. Family Group Decision-Making (FGDM) is a meeting about your family. It brings together you, your family, friends if you choose, the social worker and service providers to work as a team. The meeting is about your family taking charge of a plan to address the care and safety of your children. If you choose FGDM, you are allowing the important people in your lives to share knowledge, their concerns and the strengths they see in you and your family. They will be there to help you make the best decisions for you and your children. If you believe that a FGDM meeting would be helpful to you and your family, please talk with your social worker or the supervisor about scheduling this meeting.

WILL LAW ENFORCEMENT BE INVOLVED?

Law enforcement and CFSD staff often work together during an investigation of a report of possible child abuse or neglect. This is most often the case when there is reason to believe that a child has been sexually abused, has received serious injury, or is the victim of another crime. Law enforcement also may be involved if it is necessary to remove a child from a situation that could be dangerous to the child and/or to the social worker.

POSSIBLE OUTCOMES OF THE ASSESSMENT AND INVESTIGATION

When the assessment and investigation of a report is completed by the social worker, and the information is reviewed by the supervisor, a decision is made as to whether or not abuse or neglect has occurred.

When the investigating social worker and the supervisor determine that there is more information or evidence that abuse or neglect

occurred than information or evidence that it did not occur, the term SUBSTANTIATED is used. Montana law and CFSD policy are used a guide in making this determination.

If the investigating social worker and the supervisor determine that the evidence found is not sufficient to show that abuse or neglect has occurred, the term UNSUBSTANTIATED is used.

When an investigation and assessment is completed and the investigating social worker and the supervisor determine that abuse or neglect, as defined by Montana law, could not have occurred, the term "UNFOUNDED" is used. Unfounded reports are removed from the record in approximately 30 days.

WILL THE CHILD BE TAKEN FROM THE FAMILY HOME?

In most cases, children remain with their parent or parents during and after an assessment and investigation by CFSD. Unless a child is in danger and cannot be protected in the home, the goal of CFSD is to keep families together. If the child is determined to be in immediate danger, the social worker may use the authority of a Petition for Emergency Protective Services to immediately remove the child from a dangerous situation. If the decision is made to make an emergency placement of your child, the social worker or the supervisor is required to provide you with the following written information:

1. A notification of the removal
2. The reason for the removal
3. Information about the future show cause court hearing

The child may be placed with the child's non-custodial parent or a member of your extended family when appropriate, or in a licensed foster home, group home or shelter care facility. If you have family members who would be willing to provide safe care for your child, please tell the social worker their names and how to get in touch with them. If you and the child's other parent are not living together, you will be expected to give his or her name to the social worker. It is often more pleasant for children to stay with a known family member.

IF YOU ARE THE PARENT OF AN INDIAN CHILD?

If your child is removed from your home, it is important that you let the social worker know that you or the child's other parent, or your child is enrolled or enrollable in an Indian tribe. Please give the name

of your tribe or tribes to the social worker. The INDIAN CHILD WELFARE ACT (ICWA) is a federal law that governs state social services and state courts in all foster care and adoption cases involving Indian children.

If you are, or your child is American Indian, you qualify for certain protections and services through ICWA. For example, if the court determines that your income is at poverty level, you have the right to have an attorney appointed to represent you if your child is removed from your home. The social worker is required to notify your tribe in writing to inform them that your child has been placed in care. The tribe may chose to become involved with your child's case at any time.

The social worker is also required to follow the placement preferences in ICWA when an Indian child is placed in foster care. Relatives (either Indian or non-Indian) are the first consideration for placement. Considered next would be placement with a member of the same tribe, then with a member of another tribe. The fourth choice under ICWA would be placement with a family recommended by the tribe. If none of these options are available and your child is in immediate danger, he or she may be placed in a non-Indian foster home.

Your or your child's tribe may request that jurisdiction of your case be transferred to tribal court. If either parent objects to this transfer, the case will remain in state court. The tribe may become involved at any time and make recommendations regarding placement of the child or children involved.

For additional information about how ICWA may affect you and your case, talk with your social worker, attorney, or your tribal representative. The Indian Child Welfare Act is a federal law. If your child is Indian, and enrolled or able to be enrolled in any Indian tribe, the law must be followed.

POSSIBLE LEGAL INTERVENTIONS

ORDER FOR IMMEDIATE PROTECTION AND EMERGENCY PROTECTIVE SERVICES

Social workers attempt to work cooperatively with families whenever possible. However, if there is a risk of immediate danger to the child, a decision may be made to place the child in protective services. If this occurs, the social worker or the supervisor must send a sworn affidavit to the County Attorney within 2 working days after the child's removal from your home. The affidavit must state the reasons for the removal of the child.

The information contained in the affidavit must describe why the child was, or would be, in danger if he or she remained in the home. The county attorney then files a petition for Emergency Protective Services. An Order for Emergency Protective Services is issued upon filing the petition. This Order gives CFSD the authority to place your child out of your home. If the social worker makes an emergency placement of your child, the social worker must provide you with a written notice of the reason for the removal, as soon as possible after the removal.

When the Order for Emergency Protective Services is signed, the judge will set a date for a show cause hearing. The show cause hearing should be held within 20 working days, unless you, the parent or your attorney, request a delay. At this hearing, you have the right to voice your agreement or disagreement with the actions taken by CFSD. As a parent, you may represent yourself at the hearing or hire an attorney. If you are indigent (having income that meets poverty guidelines), you have the right to request that the Court appoint an attorney to represent you. The Court will decide in each case, whether or not an attorney will be appointed.

If you are in Montana and able to be located, you will be served personally, with the petition, at least 5 working days before the date of the hearing. If you cannot be located to be served, the Court may appoint an attorney to represent you if in the opinion of the Court, the interests of justice require this. If a non-custodial parent cannot be located, a notice must be published in a newspaper to attempt to locate the other parent.

TEMPORARY INVESTIGATIVE AUTHORITY (TIA)

When a Temporary Investigative Authority is ordered by the judge, it gives Child & Family Services Division the legal right to conduct an in-depth investigation into the child's situation. A TIA may be ordered at the show cause hearing in addition to the Order for Emergency Protective Services. A TIA can be ordered for a maximum of 90 days. A TIA does not give CFSD/DPHHS legal custody of your child. A Guardian ad Litem (GAL) and/or a Court Appointed Special Advocate (CASA) will be appointed to represent your child whenever any court ordered action is taken. After a TIA is ordered, your social worker will work with you to develop a plan to assist you in resolving the problems that led to your child being removed from your care. Please remember that you have only 90 days to successfully complete the requirements listed in your voluntary plan. At the end of 90 days, the judge must order Temporary Legal Custody if he or she determines that your child cannot be safely returned to your care.

TEMPORARY LEGAL CUSTODY (TLC)

When Temporary Legal Custody (TLC) is ordered, CFSD/DPHHS will have the right and responsibility for the care, custody and control of your child on a temporary basis.

Your child will be adjudicated (determined) to be a Youth in Need of Care, (an abused, neglected or abandoned youth). The Court usually orders TLC for 6 months. TLC may be extended for an additional 6 months if the Court believes that more time is required. When TLC is ordered, a treatment plan is usually ordered. Please work with your social worker to help decide the tasks that need to be included in this treatment plan to assist you in having your child safely returned to your care. Your successful completion of this court-ordered treatment plan is necessary if you are to reunite with your child. Be sure to communicate regularly with your social worker to discuss your progress in completing your treatment plan. Remember, the time you have to successfully complete the plan is limited by state and federal law.

A permanency plan hearing must be held no later than 12 months after a child has been found by the Court to be abused or neglected, or approximately 14 months after a child is removed from the home, or whichever comes first. At this hearing a report is submitted to the Court by CFSD and the Guardian ad Litem or CASA, stating the permanency plan for the child. This report must address:

1. The social worker's efforts to implement the permanency plan for the child;
2. All possibilities for the child's permanent placement;
3. Reasons and justifications for these options and
4. The plan for how the placement decision will be carried out, including specific times for completing the placement plan.

Please ask your social worker or the supervisor to explain the requirements of the permanency plan hearing if you have questions.

It is in your best interest for you to begin working immediately on the tasks as outlined in your voluntary or court-ordered, treatment plan. You have the power to determine whether or not you will keep the right to parent your children. CFSD wants you to succeed in making the changes in your behavior that will enable you to safely parent your children.

TERMINATION OF PARENTAL RIGHTS (TPR) AND PERMANENT LEGAL CUSTODY (PLC)

According to Montana law and federal law, if a child remains in court ordered out-of-home care for 15 of the past 22 months, the state is required to file for Termination of Parental Rights (TPR) and Permanent Legal Custody (PLC).

Children need to know that they have a permanent family who will take care of them. A year in the life of a young child has a significant impact. Because this is true, the law dictates that CFSD is required to have two concurrent plans for children who are in the care of DPHHS/CFSD. The first plan is to return your child safely to your care. The second plan is to place your child in another permanent home through adoption or guardianship. If repeated attempts fail to correct the issues and behaviors that put your child at risk, it will be necessary to file a petition with the Court for Termination of Parental Rights. If this occurs, you will have an attorney appointed to act as your council if you do not have the financial resources to hire one. Please do keep in mind that due to federal and state laws, your time to successfully complete the requirements of your court-ordered treatment plan may be limited by the requirement that when your child is in out-of-home care for 15 of the past 22 months, CFSD is required to request that the Court file for Termination of Parental Rights. Please talk with your social worker or the supervisor about this very important time limit.

INFORMAL PARENT SUPPORT (Friend of the Parent)

As the parent who is working with CFSD regarding a report of abuse or neglect, you may ask a friend or relative to accompany you through any abuse and neglect proceedings. If you choose to have someone assist you, the following is required:

* you must sign a release of information form allowing your support person to have access to all confidential records and disclosures in your case, and

* you and your support person must sign an agreement regarding the scope of duties and responsibilities that your support person will have regarding your case.

SERVICES THAT MAY BE RECOMMENDED OR REQUIRED

Being a parent can be frustrating, exciting and exhausting. CFSD staff look for ways to assist parents in understanding, enjoying, and caring for their children. CFSD also believes that children have the right to be free from abuse and neglect. CFSD may refer families to community services such as parent assistance and training programs, drug and alcohol evaluations and treatment, family and individual counseling, day care programs, in-home services, anger management classes or other available services in their communities. Families may also be referred for help in housing, financial assistance, food banks, legal or employment services. Please talk with your social worker about any suggestions you have for services that would assist you with providing safe care for your child. It is in your best interests to begin working on successfully completing any services that are required in the court-ordered treatment plan.

WHAT HAPPENS TO YOUR CASE INFORMATION?

All information gathered during the assessment and investigation is confidential. However, Montana law states that necessary information may be released to certain persons. This includes, but is not limited to; physicians, therapists, foster parents, child protection teams, CASA, and FCRC, and child care facilities such as group homes and residential care providers who might be working with your family and/or your child or children. With a release signed by you, the Friend of the Parent, if you select one, may have access to this information. Your attorney, if you have one, also has the right to your case information when you sign a release to him or her.

Substantiation Letter

If abuse or neglect is substantiated, you will receive a letter stating specifically what was substantiated. The letter will also say that this substantiation may impact future employment in child care, group home care, or work with developmentally disabled persons. This letter will also explain appeal procedures available to you. Please read it carefully.

You have the right to information contained in your case file unless there are circumstances where the disclosure of file information is determined to be detrimental to the child or harmful to another person who is the subject of the information contained in the file. Under Montana law, you do not have the right to be given the name of the person or persons who made reports of possible abuse or neglect.

If you want to review material in your file, please make this request to the social worker or the supervisor. You will be given a form to complete, or you will be required to make your request in writing. Certain names, including the name of the reporter or reporters, will be blackened out. Information and reports from other individuals or agencies may not be included. Your social worker or the supervisor is required to respond to your request within 15 working days by disclosing the material requested or providing a written response giving reasons for not disclosing the material. You also have the right to add written information to your file if you disagree with the information that led to substantiation, or if you have additional information you wish CFSD to know.

APPEAL PROCEDURES

You have the right to request a fair hearing to review a substantiated report of abuse or neglect. If the District Court has adjudicated (ordered) your child or children "Youth in Need of Care" and Temporary Legal Custody has been ordered, the Hearings Officer may determine that a fair hearing will not be granted because your right to due process was fulfilled by a District Court hearing. If you want a fair hearing, you are required to make this request in writing, as explained in the last paragraph of the letter informing you of the substantiation of abuse or neglect. Your written request must be received by the CFSD Administrator within 30 days after you receive the letter informing you of the substantiation of abuse or neglect. You may also submit additional information to be reviewed at the fair hearing. If you make an appointment with your social worker and/or the supervisor, they will attempt to answer your questions about the appeal process.

If your request for a fair hearing is received within 30 days from the date on the substantiation letter, you will be notified in writing of the date and the time of the fair hearing. You will also be notified if your request for a fair hearing is denied due to Temporary Legal custody being ordered. Fair hearings are conducted by the DPHHS Quality Assurance Division.

SOME CLOSING THOUGHTS:

You have the right to expect that your social worker and all CFSD staff are honest with you about your case and that they fully disclose all information about case plans. Your social worker is expected to treat you with respect and to be available for meeting with you when you have an appointment, and to return your phone calls within a reasonable time. When you call your social worker and he or she is not available,

please leave a message stating when you called and where you can be reached. Please treat your social worker with respect as well. If you have reason to believe that you are being treated unprofessionally, please talk with your social worker, the supervisor, or the regional administrator. You may get the name and number of a social worker's supervisor from the social worker. The phone numbers of the regional administrators are listed below.

Eastern Regional Administrator, Miles City	406-232-1385
North Central Regional Administrator, Great Falls	406-727-7746
South Central Regional Administrator, Billings	406-657-3120
Southwestern Regional Administrator, Helena	406-444-2030
Western Regional Administrator, Missoula	406-523-4100

The Child & Family Services Division staff wants you to be successful in providing safe and loving care to your child. If you want to learn about ways to teach your child, ways to discipline your child, how to communicate with your teenager, how to change patterns of behaviors you don't like (in yourself and in your child), please ask your social worker for some names, phone numbers, parent groups, books you might read, videos you might watch, and agencies that might assist you. All of us can learn from our mistakes as well as from our successes. We wish you and your children much success.

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